



SENTENCING IN WISCONSIN

Snapshots of Information on Wisconsin Sentencing

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Sentencing Guidelines Worksheet Submissions Update*Dan Fischer, Research Assistant*

This Snapshot is an update on sentencing guidelines worksheet submissions since their inception in February 2003. These worksheets collect information on 11 felony offenses, representing all major offense types—violent, property, sex, and drugs. The original worksheet was released in 2/1/2003 (Version 1), but was replaced in July 2005 when updates were implemented (Version 2). Between February 2003 and November 2005, the commission has received 2083 valid worksheets¹.

WORKSHEET SUBMISSIONS

In order to gauge how representative the worksheets are—relative to actual crime statistics in the State of Wisconsin—it is important to know for what percent of the 11 major offenses the Commission is receiving them. As of November 1st, the Commission has received worksheets for approximately 23% of the guidelines offenses committed. Between February 2003 and July 2005, the percentage of submitted worksheets to committed offenses was 22%. Yet since the inception of the updated version on July 1st, 2005, this number has risen to 31%. The original worksheets were submitted, on average, at a rate of 60 per month. However, this number has risen to 85 per month since the release of Version 2. Table 1 contains a breakdown of Version 2 worksheet submissions by offense types.

When comparing submissions between the two worksheet versions, the rates have changed. All but four offenses (*Delivery/PID-THC*, *Robbery*, and 1st & 2nd Degree Sexual Assault) exhibited an increase in submission rates between Version 1 and 2. The most significant increase occurred with *Delivery/PID-Cocaine* (31% higher) and *Armed Robbery* (19% higher).

COMMON ERRORS

By and large, the majority of worksheets submitted to the Commission were valid. Only 15% contained errors

Table 1: Percent of Worksheets Received (Version2)

Offense	% Of Worksheets ^A	Est. % Of Cases ^B
1st Degree Sexual Assault	1%	25%
1st Degree Sexual Assault of Child	1%	26%
2nd Degree Sexual Assault	5%	36%
2nd Degree Sexual Assault of Child	8%	32%
Armed Robbery	13%	59%
Burglary	32%	33%
Forgery & Forgery Uttering	21%	17%
Delivery & PID - Cocaine (<=1g)	9%	38%
Delivery & PID - THC (200-1000g)	3%	19%
Robbery	6%	16%
Theft >\$10,000	1%	27%
Total	100%	31%

^A Percent of worksheets by offense to total number received. When added together, percentages equal 100.

^B Estimated percent of worksheets received to total number of guidelines offense cases. Without a full year's worth of worksheets, it was necessary to estimate annual return rate percentages based on last year's totals.

which rendered the worksheet unusable. Yet in order for the Commission to collect complete and accurate sentencing data, as well as minimize any unnecessary effort set forth by judges, this section will summarize a few common worksheet errors and misconceptions.

As illustrated in Table 2, the most common worksheet submission error was worksheets completed for non-guidelines offenses. The second most common error was worksheets received for guidelines-related offense, but for incorrect amounts (dollar amounts for theft offenses and weight for drug offenses). The Commission has also received worksheets for incorrect guidelines offenses. For example, *Sexual Assault* worksheets are sometimes submitted for *Sexual Assault of a Child* offenses. Other, less common mistakes include sending in worksheets for

Table 2: Worksheet Errors (Version 1 & 2)

Worksheet Statute	Total Received	% Usable	Open Cases	Sentence Revoked	Deferred Prosecution	Dismissed	Non-Guideline Offense	Wrong Guideline Offense
1st Degree Sexual Assault	15	80%	0	0	0	0	1	3
1st Degree Sexual Assault of Child	120	83%	2	0	0	0	12	2
2nd Degree Sexual Assault	32	88%	0	0	0	0	0	5
2nd Degree Sexual Assault of Child	206	84%	0	0	1	0	18	7
Armed Robbery	321	87%	0	0	0	2	23	9
Burglary	715	90%	0	5	1	1	29	6
Forgery & Forgery Uttering	467	92%	2	2	1	2	11	2
Delivery & PID - Cocaine (<=1g)	273	71%	3	0	0	2	60	4
Delivery & PID - THC (200-1000g)	113	55%	0	0	0	2	44	1
Robbery	147	86%	0	0	0	0	11	5
Theft >\$10,000	45	69%	0	0	0	2	10	1
Total	2454	85%	7	7	3	11	219	45

cases that are still open, that received deferred prosecution, or that were dismissed.

Lastly, since the inception of Version 2 in July 2005, the Commission has seen some common submission and input errors on the worksheets. Below are a few examples of these errors. For a complete list, please visit the Commission's website.

▪ **Factors that would typically be considered mitigating checked as aggravating.**

EX. "No Criminal Record"; "Usually Employed"; "Same Employer for Extended Period of Time"; "Family Support or Other Support Network"

▪ **Factors that would typically be considered aggravating checked as mitigating.**

EX. "Concealed or Altered Appearance"; "Bulletproof Clothing"; "Repeat Offender"; "Dangerous Weapon";

▪ **Both aggravating and mitigating checked for a factor.**

EX. "Dealing for Profit / Not Dealing for Profit"; "Motivation (Need or Greed)"

▪ **No option circled for factors with multiple options (indicated by "I").**

EX. "Minimal / Leader"; "Threat / Abduction / Restraint"; "Abused Position of Trust / Authority"

▪ **Values entered for factors with amounts, but not the effect (mitigating and aggravating).**

EX. "Age of Defendant"; "Amount of Cash"; "Weight of Drug"

▪ **Additional court documents attached to worksheet.**

EX. "Judgment of Conviction"; "Certification of Status of Pending Cases"; "Written Explanation of Determinate Sentence"

¹ Valid worksheets refer to those submitted for guideline offenses that resulted in a conviction. A list of the guideline offenses and worksheet instructions ([Revised Temporary Guidelines Worksheet](#)) can be found on the Sentencing Commission's website (www.wsc.wi.gov).

The Wisconsin Sentencing Commission periodically publishes "Sentencing in Wisconsin" to provide the public, state courts, and policymakers data on state sentencing practices. For other publications, or more information about the Commission, see its website, <http://wsc.wi.gov>